

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES DOUGLAS LINGARD,

Defendant.

Case No. 2:21-CR-0138-TOR

STIPULATED PROTECTIVE  
ORDER REGARDING COMPUTER  
FORENSIC REVIEW PROCEDURES  
FOR CHILD PORNOGRAPHY  
CONTRABAND

BEFORE THE COURT is the parties' Stipulated Motion for Protective Order Regarding Computer Forensic Review Procedures for Child Pornography. ECF No. 21. The motion was submitted for hearing without oral argument. Having reviewed the file and the records therein, the Court is fully informed.

GOOD CAUSE HAVING BEEN SHOWN, the Court hereby ORDERS that the Stipulation Regarding Computer Forensic Review Procedures For Child Pornography Contraband filed by the parties is GRANTED.

1. IT IS FURTHER ORDERED that 18 U.S.C. § 3509(m) applies to this case, and the Court is required to deny defense requests to copy, photograph, duplicate, or otherwise reproduce material constituting child pornography if the government makes the material reasonably available to Defendant and provides an ample opportunity for the defense to examine it at a government facility. *See* 18 U.S.C. § 3509(m).

1           2.     IT IS FURTHER ORDERED that, in order to comply with 18 U.S.C.  
2 § 3509(m), and to allow Defendant the greatest opportunity to prepare an effective  
3 defense in preparation for trial in this matter, the government will make a true forensic  
4 copy of images and extractions from devices and media containing alleged child  
5 pornography contraband at issue in the above-referenced case. The government will  
6 make that forensic image reasonably available to Defendant and provide ample  
7 opportunity for the defense team to examine it at a government facility in Spokane,  
8 Washington. The parties may readdress the Court if there is a need for additional or  
9 after-hours access during the course of litigation or additional forensic review.

10           3.     IT IS FURTHER ORDERED that the defense forensic examination will be  
11 conducted in an interview room monitored by closed-circuit television (“CC-TV”),  
12 without audio feed. While the TV with non-audio feed will ensure the integrity of FBI  
13 space and security of its occupants, the video feed is not of sufficient detail or at an  
14 angle that would reveal defense strategy. The government and its agents expressly agree  
15 that no attempt will be made to record any audio from the workstation and that no  
16 attempt will be made to observe the defense team’s work product or computer monitor  
17 screen at any time. The defense expert may review the feed to ensure that defense  
18 strategy is not being compromised at any time while conducting the forensic review.

19           4.     IT IS FURTHER ORDERED that the defense team<sup>1</sup> shall not make, nor  
20 permit to be made, any copies of the alleged child pornography contraband pursuant to  
21 this Protective Order and shall not remove any contraband images from the government  
22 facility. The defense expert will be allowed to copy any file that is not contraband and  
23 compile a report (without contraband images/videos) documenting the examination on  
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25 <sup>1</sup> For purposes of this Protective Order, the term “defense team” refers solely to  
26 Defendant’s counsel of record (“defense counsel”), Defendant’s designated expert  
27 (“defense expert”), and a defense investigator.  
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1 removable media at the discretion of the defense expert.

2 5. IT IS FURTHER ORDERED that the defense expert and investigator will  
3 leave at the government facility any equipment, including hard drives, which contain  
4 child pornography contraband that is identified during forensic evaluation.

5 6. IT IS FURTHER ORDERED that for the purpose of trial, the government  
6 agrees to make available a digital copy of any government trial exhibit that contains  
7 contraband, which will be kept in the custody and control of the case agent. Upon  
8 reasonable notice by the defense, the case agent will also maintain for trial digital copies  
9 of any proposed defense exhibit that contains contraband. If the defense team intends to  
10 offer, publish, or otherwise utilize any government or defense exhibit contained on the  
11 digital copy maintained by the case agent during trial, the case agent shall assist the  
12 defense team in publishing or utilizing the exhibit that contains contraband upon  
13 notification by the defense team.

14 IT IS SO ORDERED. The Clerk shall enter this Order and furnish copies to  
15 counsel.

16 Dated October 19, 2021.

A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge